

LAW OFFICE OF VERONIKA SHORT

Veronika Short (#224694)
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San Jose, California 95113
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Attorneys for Plaintiff,
IME, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

INSTITUTE OF MEDICAL EDUCATION,
INC.

Plaintiff,

vs.

WESTERN ASSOCIATION OF SCHOOLS
AND COLLEGES; and DOES 1 through 10,
inclusive.

Defendants.

Case No. CV 171661

**DECLARATION OF VERONIKA
SHORT IN RESPONSE TO ORDER TO
SHOW CAUSE**

I, Veronika Short, hereby declare:

1. I am an attorney at law duly licensed to practice before all the courts of the State of California, and in the United States District Court, Northern District of California. I am attorney of record for plaintiff IME, Inc. I have personal knowledge of the matters set forth herein and if called as a witness would testify competently thereto.

2. This declaration is submitted in response to the Court's Order to Show Cause issued on September 21, 2012.

3. I was retained by plaintiff on or about August 3, 2012. The proposed order to substitute me as counsel was filed and submitted by prior plaintiff's counsel on August 7, 2012 (Document 45, filed on 08/07/12). The Court signed the order approving my substitution on September 6, 2012 (Document 46 filed on 09/06/12). I am a solo practitioner and have

1 associated attorney Bruce C. Funk to assist me with the volume of work to prepare this case to
2 trial within the Court deadlines (Document 47 filed on 09/07/12).

3 4. Within four (4) days of the Court granting the order approving me as attorney of
4 record I served the first set of document requests (69 requests) on defense counsel, Ms. Alicia
5 Kennon and Mr. Seymour B. Everett. On September 11, 2012 I noticed eight (8) depositions
6 with a request for production documents to defense witnesses and a third party.

7 5. On September 11, 2012, I also emailed and mailed correspondence to defense counsel
8 asking that they contact me to discuss mediators, as it was my understanding that this case was
9 ordered to private mediation to be completed by December 2012. Defense counsel did not
10 respond to this request.

11 6. I received the Court's last case management conference order from the previous
12 counsel for plaintiff. Previous counsel did not inform me that there was a case management
13 conference scheduled on September 19, 2012. In reviewing the last case management
14 conference order I did not see the new hearing set on September 19, 2012. I was focused on the
15 discovery and expert deadlines contained in said order. I sincerely apologize to the Court and
16 for any inconvenience it may have caused to anyone. I prepared this response as soon as
17 possible after the Court's Order to Show Cause issued yesterday.

18 7. I am aware that prior counsel for plaintiff did not undertake any discovery in this
19 matter (neither has defendant). This is not the case with regard to my efforts to prepare
20 plaintiff's matter for trial. In addition to the discovery items already served, Mr. Funk and I
21 have retained experts, and are working on issuing additional subpoenas, deposition notices,
22 interrogatories and request for admissions.

23 8. Ms. Kennon first contacted me by email on September 18, 2012, apparently the day
24 before the case management conference. She acknowledged receipt of the deposition notices
25 and wrote with regard to a potential scheduling conflict. She did not mention that a joint case
26 management statement must be filed. In the ensuing correspondence Ms. Kennon indicated she
27 would call but has not called to date. A true and correct copy of my correspondence and our
28

1 email correspondence from September 11, 2012 on is attached as Exhibit A.

2 9. I know of no reason why defense counsel felt she could not reach me with regard to
3 the joint statement. My telephone number and email address are clearly marked in the court
4 filings, my letter and my emails. Defense counsel would have had this information since
5 August 7, 2012 when the proposed order was filed with the Court. While it is not her
6 responsibility to alert me of a hearing, I have no explanation why she made no attempt to
7 contact me since August 7 regarding the joint statement and why she did not mention the joint
8 statement in her September 18, 2012 email.

9 10. I will contact Ms. Kennon and address the filing of a joint case management statement
10 in time for the October 10, 2012 hearing.

11 11. Based on the foregoing, I respectfully request that the Court vacate the Order to Show
12 Cause.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct of my personal knowledge except as to those matters which are
15 alleged upon information and belief, and, as to such matters I am informed and believe them to
16 be true.

17 This declaration is signed this 21 day of September, 2012, in San Jose, California.

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20 Veronika Short
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EXHIBIT A

LAW OFFICE OF VERONIKA SHORT

46 W Santa Clara St
San Jose, CA 95113

veronika@vshortlaw.com

Tel. (408) 599-1670

Fax (408) 549-9818

September 11, 2012

VIA FIRST CLASS MAIL AND EMAIL

Seymour B. Everett, Esq.

Alicia R. Kennon, Esq.

akennon@wshblaw.com

mzabala@wshblaw.com

Wood, Smith, Henning & Berman LLP

1401 Willow Pass Road, Suite 700

Sacramento, CA 94520-7982

Re: Institute of Medical Education, Inc. v. WASC, et al.; United States District Court,
Northern District of California – San Jose Division, Case no. 111CV05755LHK

Dear Counsel:

Enclosed please find eight (8) deposition notices, including the subpoena to Mr. Eric Fosker of USDOE, certificate of service and a copy of the Request for Production of Documents, Set One, previously served by mail on September 10, 2012. Exhibits A through D were inadvertently omitted from the package yesterday. The exhibits are attached to the copy sent today and follow by email.

With regard to the depositions, please let us know if your witnesses are/are not available on the dates noticed. We will make every reasonable effort to accommodate their schedules given the Court set deadlines.

If you have any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,



Veronika Short

VS:

Encl. as stated

cc. Bruce C. Funk, Esq.



Veronika Short <veronika@vshortlaw.com>

IME v. WASC

1 message

Veronika Short <veronika@vshortlaw.com>

Tue, Sep 11, 2012 at 5:13 PM

To: akennon@wshblaw.com, mzabala@wshblaw.com

Cc: bcfunkesq@aol.com

Dear Counsel,

Please see enclosed correspondence and a courtesy copy of the discovery - 8 deposition notices - as well as the Exhibits, A-D, inadvertently omitted from the Request for Production of Documents, Set One, served by mail on September 10, 2012.

I was recently contacted by Robin of the Court ADR office in San Francisco. Apparently, the online record is not clear that the parties opted out of the Court ADR and agreed to private mediation. Robin requested that we file a stipulation for the Judge's signature so stating. We might as well touch base on who you would like to use as our private mediator. Please submit some names and we will do the same.

When you respond, please cc my co-counsel Bruce C. Funk at bcfunkesq@aol.com.

Thank you,

Veronika Short

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13 attachments

2012_09_11_Deposition Notice WASC PMK ACS.pdf
534K



2012_09_11_Notice of Deposition Barbara Beno.pdf
464K



2012_09_11_Notice of Deposition David Brown PhD.pdf
597K




2012_09_11_Notice of Deposition Eric Fosker.pdf

289K

 **2012_09_11_Notice of Deposition George Bronson EdD.pdf**
406K

 **2012_09_11_Notice of Deposition Lee Duncan EdD.pdf**
554K

 **2012_09_11_Notice of Deposition WASC PMK Title IV.pdf**
558K


 **2012_09_11_Notice of Deposition, WASC PMK ACCJC accreditation.pdf**
501K

 **2012_09_11_POS Depositions.pdf**
314K

 **2012_09_11_Short to Counsel.pdf**
221K

 **EXHIBITS.pdf**
300K

 **2012_09_10_RFP Set One to WASC.pdf**
773K

 **2012_09_10_POS.pdf**
269K



Veronika Short <veronika@vshortlaw.com>

RE: IME v. WASC (05488-0231)

4 messages

Alicia R. Kennon <AKennon@wshblaw.com>

Tue, Sep 18, 2012 at 9:53 AM

To: Veronika Short <veronika@vshortlaw.com>, "Michele L. Zabala" <MZabala@wshblaw.com>

Cc: "bcfunkesq@aol.com" <bcfunkesq@aol.com>

Hi Veronika,

We need to chat about the depo notices you sent out. I appreciate your effort and will work with you as best as I can but I have a number of things scheduled during the times you've noticed the depositions. I'm essentially handling this case on my own without any other attorney to cover depositions etc and I have a trial date on 10/22 that I've got a mediation and expert depositions scheduled in.

I am in a mediation and can't really chat about the specifics today but one big conflict I have is the depo you noticed for 10/15. I have a mediation that day and would greatly appreciate it if you would agree to continue that deposition.

Kindly let me know as soon as reasonably possible whether you are amenable to moving the depo. I've got 8 people hanging in the balance on this one.

Thanks,

Alicia R. Kennon

Senior Associate | Wood, Smith, Henning & Berman LLP

1401 Willow Pass Road, Suite 700 | Concord, CA 94520

akennon@wshblaw.com | TEL 925.222.3412 | FAX 925.222.3250**WSH&B**

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From: Veronika Short [mailto:veronika@vshortlaw.com]**Sent:** Tuesday, September 11, 2012 5:13 PM**To:** Alicia R. Kennon; Michele L. Zabala**Cc:** bcfunkesq@aol.com**Subject:** IME v. WASC

Dear Counsel,

Please see enclosed correspondence and a courtesy copy of the discovery - 8 deposition notices - as well

as the Exhibits, A-D, inadvertently omitted from the Request for Production of Documents, Set One, served by mail on September 10, 2012.

I was recently contacted by Robin of the Court ADR office in San Francisco. Apparently, the online record is not clear that the parties opted out of the Court ADR and agreed to private mediation. Robin requested that we file a stipulation for the Judge's signature so stating. We might as well touch base on who you would like to use as our private mediator. Please submit some names and we will do the same.

When you respond, please cc my co-counsel Bruce C. Funk at bcfunkesq@aol.com.

Thank you,

Veronika Short

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Veronika Short <veronika@vshortlaw.com>

Tue, Sep 18, 2012 at 3:57 PM

To: "Alicia R. Kennon" <AKennon@wshblaw.com>

Cc: "Michele L. Zabala" <MZabala@wshblaw.com>, "bcfunkesq@aol.com" <bcfunkesq@aol.com>

Hi Alicia,

Hope your mediation is going well.

We are amenable to working with you on the deposition schedule but given the court's discovery cut off, Nov. 16, we do not have a lot of flexibility. Perhaps you can give me a call tomorrow to discuss the dates and see what can be done.

With regard to October 15, that is the deposition of Eric Fosker, USDOE, by subpoena. Once we chat and I have some alternative dates from you, I will call Mr. Fosker and see if he agrees to move the date.

Thank you,

Veronika

[Quoted text hidden]

Alicia R. Kennon <AKennon@wshblaw.com>

Wed, Sep 19, 2012 at 4:03 PM

To: Veronika Short <veronika@vshortlaw.com>

Hi Veronika,

I apologize that I did not get to this sooner today. Let's chat tomorrow about dates if we can that will give me an opportunity to look at everything you sent out and attempt to coordinate.

Thanks,

Alicia R. Kennon

Senior Associate | Wood, Smith, Henning & Berman LLP

1401 Willow Pass Rd., Suite 700 | Concord 94520

akennon@wshblaw.com | TEL 925.222.3412 | FAX 925.356.8250



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From: Veronika Short [mailto:veronika@vshortlaw.com]
Sent: Tuesday, September 18, 2012 3:57 PM
To: Alicia R. Kennon
Cc: Michele L. Zabala; bcfunkesq@aol.com
Subject: Re: IME v. WASC (05488-0231)

[Quoted text hidden]

Veronika Short <veronika@vshortlaw.com>
To: "Alicia R. Kennon" <AKennon@wshblaw.com>

Wed, Sep 19, 2012 at 4:57 PM

Sounds good Alicia. I will be in mediation in San Francisco in the first half of the day and expect to be back in the office after 2pm.

[Quoted text hidden]

PROOF OF SERVICE

I, Veronika Short, declare that I am over the age of eighteen (18). My business address is 46 W. Santa Clara Street, San Jose, California 95113. On September 21, 2012, I served the

DECLARATION OF VERONIKA SHORT IN RESPONSE TO ORDER TO SHOW CASE upon the following parties pursuant to the method described below:

- (1) Alicia Kennon, Esq. at akennon@wahblaw.com
- (2) Seymour Bernard Everett, Esq. at severett@wahblaw.com
- (3) Bruce C. Funk, Esq. at bcfunkesq@aol.com

BY ELECTRONIC SERVICE: Pursuant to Fed. R.Civ.P. 5(b)(2) and Local Court Rule(s), the foregoing document will be served by the court via CM/ECF. Pursuant to the CM/ECF docket for this case proceeding the following person(s) are on the Electronic Mail Notice List to receive ECF transmission at the email address(es) indicated above.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

Executed, September 21, 2012, in San Jose, California.

s/Veronika Short